

\*E-filed 8/22/05\*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICK FUTIA,

Case No. C 04-3827 HRL

Plaintiff,

STIPULATION OF DISMISSAL; ORDER

v.

MARIANNE SMITH Trust,  
ANTHONY LABARBERA Trust,  
and ANN LABARBERA Trust, *et al.*,

Defendants.

\_\_\_\_\_ /

The parties hereto stipulate as follows:

The parties have reached a full and final settlement of all issues in this action. A Settlement Agreement between the parties has been fully executed.

Some parts of the Settlement Agreement are to be performed in the future. The parties shall comply with their Settlement Agreement, a copy of which is incorporated by reference as

if fully set forth. The parties request the Court to retain jurisdiction for two years from the date hereof in order to enforce the terms of the Settlement Agreement under the authority of *Kokkonen v. Guardian Life Insurance Co. Of America*, 511 U.S. 375, 381-82 (1994).

Although the parties are hereby dismissing this action with prejudice, they agree that the Court will retain jurisdiction over this action and the parties hereto in order to be able to enforce the terms of the Settlement Agreement.

IT IS HEREBY STIPULATED by and between the parties to this action through their designated counsel that this action be and hereby is dismissed with prejudice pursuant to FRCP 41(a)(2), and the Court retains jurisdiction to enforce the terms of the Settlement Agreement for two years after the date hereof.

Date: August 1, 2005

Date: August 1, 2005

\_\_\_\_\_  
S/Paul Wayne  
Paul Wayne  
Attorney for Defendants

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S/Thomas N. Stewart, III  
Thomas N. Stewart, III,  
Attorney for Plaintiff

I attest that I have in my possession the holographic signature of Paul Wayne on this document.

Date: August 1, 2005

\_\_\_\_\_  
S/Thomas N. Stewart, III  
Thomas N. Stewart, III

IT IS SO ORDERED:

Date: 8/22/05

\_\_\_\_\_  
/s/ Howard R. Lloyd  
Magistrate Judge